

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALBERT WILLIAMS,
Petitioner,

-against-

03 Civ. 3319 (KMW) (FM)
ORDER

WILLIAM PHILLIPS, Superintendent of
Green Haven Correctional Facility,

Respondent.

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KIMBA M. WOOD, U.S.D.J.

Petitioner Albert Williams ("Petitioner") is currently serving two concurrent terms of twenty-five years to life after a jury convicted him of first-degree rape and first-degree sodomy. He has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, arguing: (1) that his speedy trial rights were violated; and (2) that he was denied the effective assistance of appellate counsel. Petitioner subsequently withdrew his speedy trial claim.

Magistrate Judge Frank Maas issued a Report and Recommendation (the "R&R") recommending that the Court deny the habeas petition.¹ Petitioner timely filed objections to the R&R.

The Court notes at the outset that "pro se litigants generally are entitled to a liberal construction of their

¹ The R&R, familiarity with which is assumed, thoroughly recounts the facts of Petitioner's criminal case and its procedural history.

pleadings, which should be read 'to raise the strongest arguments that they suggest.'" Green v. United States, 260 F.3d 78, 83 (2d Cir. 2001) (quoting Graham v. Henderson, 89 F.3d 75, 79 (2d Cir. 1996); Williams v. Kullman, 722 F.2d 1048, 1050 (2d Cir. 1981)). When a magistrate judge issues a report and recommendation, the appropriate standard of review to be applied by the reviewing district court depends on whether objections are filed. See Nuetzel v. Walsh, No. 00-CV-8776, 2006 WL 2742000, at *1, 2006 U.S. Dist. LEXIS 69583, at *1 (S.D.N.Y. Sept. 26, 2006). Where, as here, "objections are merely perfunctory responses, argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original petition, reviewing courts should review a report and recommendation for clear error.'" Id. (quoting Edwards v. Fischer, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006)). Because Petitioner's objections -- even construed liberally -- repeat arguments that Petitioner has previously made, and do not allege that Magistrate Judge Maas made any specific errors, the Court will review the R&R for clear error. See id.

The Court has reviewed the R&R, and finds it to be well-reasoned and free of any "clear error on the face of the record." Fed. R. Civ. P. 72(b) advisory committee's note; see also Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). The Court therefore accepts and adopts the R&R.

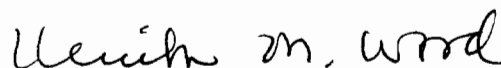
Accordingly, Petitioner's habeas petition [#1] is denied. A certificate of appealability will not issue because Petitioner has not made a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c). The Clerk of Court is directed to close the civil case associated with this petition (03 cv 3319). Any pending motions are moot.

SO ORDERED.

Dated: New York, New York

~~August~~, 2007

Sept. 14

A handwritten signature in cursive script, reading "Kimba M. Wood".

Kimba M. Wood
United States District Judge

Copies of this Order have been mailed to pro se plaintiff and counsel for the defendants.